

# **EXHIBIT A-2**

**ELECTION CODE****ABSENTEE ELECTORS****25 P.S. § 3146.6****ballots**

tions of such electors are received, the board shall deliver or mail official absentee ballots to such additional electors

within forty-eight hours after approval of their application."

**Library References**

Elections § 54.  
WESTLAW Topic No. 144.

C.J.S. Elections § 54 et seq.  
P.L.E. Elections §§ 6, 82.

**Notes of Decisions**

**Defective ballots 1**  
**Premature mailing 2**

**1. Defective ballots**

Where a student attending college at a distance received and voted a second ballot sent after she had received a defective ballot, the ballot will be counted although, by reason of an oversight, the defective ballot was not destroyed. In re Canvass of Absentee Ballots of General Election, 39 D. & C.2d 429, 1966.

This section, relating to absentee ballots, shall be enforced as requiring that

absentee ballots on voters eligible to vote only in presidential and vice-presidential elections be delivered or mailed in accord with provisions of this same statute for applications filed by qualified electors. 1972 Op.Atty.Gen. No. 148.

**2. Premature mailing**

The board properly dismissed a challenge to an absentee ballot dated after its postmark where from the circumstances the premature mailing occurred by mistake. In re City of Wilkes-Barre Election Appeals, 44 D. & C.2d 535, 1967.

**§ 3146.5a. Notice to county board of elections**

(a) At least fifty days prior to a primary, the Secretary of the Commonwealth shall transmit to the county board of elections a list of candidates who have filed a nominating petition with him and who are not known to have withdrawn or been disqualified, conforming, to the extent possible, with the requirements of section 916.<sup>1</sup>

(b) At least seventy days prior to an election, the Secretary of the Commonwealth shall transmit to the county board of elections a list, as he knows it to exist at that time, of candidates to be voted on in the county at the election, as well as a copy of all constitutional amendments and other questions to be voted on at such election, together with a statement of the form in which they are to be placed on the ballot, conforming to the extent possible with the requirements of section 984.<sup>2</sup>

1937, June 3, P.L. 1333, No. 320, § 1305.1, added 1990, Dec. 17, P.L. 681, No. 169, § 8, effective in 60 days.

<sup>1</sup> 25 P.S. § 2876.

<sup>2</sup> 25 P.S. § 2944.

**§ 3146.6. Voting by absentee electors**

(a) At any time after receiving an official absentee ballot, but on or before five o'clock P.M. on the Friday prior to the primary or election, the elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink,

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in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "Official Absentee Ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election:

Provided, however, That any elector, spouse of the elector or dependent of the elector, qualified in accordance with the provisions of section 1301, subsections (e), (f), (g) and (h) <sup>1</sup> to vote by absentee ballot as herein provided, shall be required to include on the form of declaration a supporting declaration in form prescribed by the Secretary of the Commonwealth, to be signed by the head of the department or chief of division or bureau in which the elector is employed, setting forth the identity of the elector, spouse of the elector or dependent of the elector:

Provided further, That any elector who has filed his application in accordance with section 1302 subsection (e)(2), <sup>2</sup> and is unable to sign his declaration because of illness or physical disability, shall be excused from signing upon making a declaration which shall be witnessed by one adult person in substantially the following form: I hereby declare that I am unable to sign my declaration for voting my absentee ballot without assistance because I am unable to write by reason of my illness or physical disability. I have made or received assistance in making my mark in lieu of my signature.

.....  
(Date)

.....  
(Mark)

.....  
(Complete Address of Witness)

.....  
(Signature of Witness)

(b) In the event that any such elector, excepting an elector in military service or any elector unable to go to his polling place because of illness or physical disability, entitled to vote an official absentee ballot shall be in the county of his residence on the day for holding the primary or election for which the ballot was issued, or in the event any such elector shall have recovered from his illness or physical disability sufficiently to permit him to present himself at the proper polling place for the purpose of casting his ballot, such absentee ballot cast by such elector shall be declared void.

Any such elector referred to in this subsection, who is within the county of his residence must present himself at his polling place and,



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shall be permitted to vote upon presenting himself at his regular polling place in the same manner as he could have voted had he not received an absentee ballot: Provided, That such elector has first presented himself to the judge of elections in his local election district and shall have signed the affidavit on the absentee voter's temporary registration card, which affidavit shall be in substantially the following form:

I hereby swear that I am a qualified registered elector who has obtained an absentee ballot, however, I am present in the county of my residence and physically able to present myself at my polling place and therefore request that my absentee ballot be voided.

.....  
(Date)

.....  
(Signature of Elector)

.....  
(Local Judge of Elections)

An elector who has received an absentee ballot under the emergency application provisions of section 1302.1,<sup>3</sup> and for whom, therefore, no temporary absentee voter's registration card is in the district register, shall sign the aforementioned affidavit in any case, which the local judge of elections shall then cause to be inserted in the district register with the elector's permanent registration card.

1937, June 3, P.L. 1333, art. XIII, § 1306, added 1951, March 6, P.L. 3, § 11. Amended 1963, Aug. 13, P.L. 707, § 22, effective Jan. 1, 1964; 1968, Dec. 11, P.L. 1183, No. 375, § 8.

<sup>1</sup> 25 P.S. § 3146.1(e), (f), (g) and (h).

<sup>2</sup> 25 P.S. § 3146.2(e)(2).

<sup>3</sup> 25 P.S. § 3146.2a.

**Library References**

Elections § 216.1.  
WESTLAW Topic No. 144.

C.J.S. Elections § 210.  
P.L.E. Elections § 87.

**Notes of Decisions**

**In general** 1  
**Declaration** 3  
**Elector in county on election day** 4  
**Marking ballot** 2

**1. In general**

Fact that this section governing absentee ballots had been superseded by federal law with regard to federal contests did not alter its mandatory nature with regard to state contests. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa. Cmwlth. 594, 1984.

There was no inconsistency between statute providing that no absentee ballot shall be counted which is received in the office of the county board of election later than five o'clock p.m. on the Friday immediately preceding the primary or November election and statute allowing an absentee voter to complete his ballot within the same time period as the ballot is to be received by the board in that the latter statute allows submission of the ballot to the board in person as well as by mail. In re April 10, 1984 Election of East Whiteland Tp., Chester County, 483 A.2d 1033, 85 Pa. Cmwlth. 594, 1984.